

## TEACHERS' RETIREMENT BOARD

### REGULAR MEETING

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SUBJECT: Member Authorization to Release Information

ITEM NUMBER: 8

ATTACHMENT(S):

ACTION: X

DATE OF MEETING: July 13, 2000

INFORMATION: \_\_\_\_\_

PRESENTER(S): Chris Waddell

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The California Retired Teachers Association (CRTA) has requested the Board's conceptual approval to include in the retirement application package a form that would allow a retiring member to authorize CalSTRS to release his or her name and address to CRTA or to other specified organizations representing retired teachers. As discussed below, staff believes that this proposal would require a legislative change in order to be implemented and would also present a significant workload issue. However, the Board may wish to consider the alternative of including within the retirement application package a contact form that a retiring member could use in order to communicate directly with the retiree organization of his or her choice.

#### **Background**

In April of 1996, CRTA requested that CalSTRS send its mailings to members and stated that it would reimburse CalSTRS for the costs involved. This request was made as an alternative to the provision by CalSTRS of member information directly to CRTA, which had previously been rejected by CalSTRS based upon privacy laws and confidentiality. In responding to this proposal, staff observed that there were both legal and policy issues that would need to be resolved before proceeding. Legally, staff was concerned that the proposal would result in an impermissible "renting" of confidential information. From a policy perspective, concern was expressed regarding how the Board and/or staff would respond to similar requests from other employee/retiree organizations and vendors. In addition, staff was concerned that System members might resent the use of their confidential data for purposes not directly related to CalSTRS' operations.

Subsequently, in October of 1997, CRTA requested consideration of a modification of the retirement election forms to allow members to prohibit CalSTRS from providing retiree organizations with confidential member data. Pursuant to such a "negative check-off," if the member did not check the prohibition, it would have been permissible for CalSTRS to provide retiree organizations with that member's name and address.

In response to this proposal, staff provided CRTA with a legal analysis which concluded that such a procedure would not be sufficient to overcome the general statutory prohibition against the release of confidential data. Further, it did not serve to identify an "authorized representative" for purposes of the permissible release of information, placing CalSTRS in the position of having to determine which organizations were, and were not, appropriate recipients of confidential information.

Staff did propose as a possible alternative an "affirmative declaration," which would specifically authorize the release of member names and addresses. However, staff noted that there were still problems with such a proposal that the Board would have to weigh carefully, the most sensitive of which was the verification of bonafide retiree organization status. It was observed that such a process might require regulatory and/or legislative action. In addition, the development of a comparable mechanism for active employee organizations and the potential administrative burdens imposed by such new processes were identified as issues that would have to be resolved.

### **Current CRTA Proposal**

CRTA's current proposal is essentially the "affirmative declaration" concept discussed above. Upon further review, staff is of the firmer belief that a legislative change would be required to implement such a process. This is because existing law (Education Code 22306(a)) limits the release of confidential information to: 1) the member, participant or beneficiary to whom the information relates; 2) the individual's authorized representative; 3) the individual's employer; 4) state agencies; 5) individuals attempting to locate a person to whom a benefit may be payable; and 6) pursuant to subpoena. Staff believes that the term "authorized representative" as used in the context of this statute refers to designated individuals tending to the finances of a retired member as opposed to organizations generally concerned with retirement matters. Consequently, an amendment to Section 22306(a) would be required in order to permit specifically a disclosure of information to a retiree organization pursuant to an "affirmative declaration."

Additionally, the other issues identified above with such a process remain a concern. Some process would have to be established to verify bonafide retiree organizations. Consideration of comparable mechanisms for active employee organizations would have to be given. Further, processing and retaining these declarations and providing the information to retiree organizations would impose both staff workload and potentially problematic data processing burdens on the System. A related issue exists concerning whether to pursue reimbursement from the retiree organizations for the associated costs.

In short, significant issues exist with respect to CRTA's proposal, but they could be addressed if it is the desire of the Board to pursue such an approach. As noted at the outset of this item, however, other alternatives exist for the Board's consideration. From time to time in the past, most recently in the Fall of 1999, at CRTA's request a postcard developed by CRTA was inserted into the

monthly statements of retirees. This postcard identified five retiree organizations and asked the retiree to check a space next to the name of the organization(s) they were interested in receiving information from and to mail the card to CRTA. At the Board's direction, any such proposed inserts will be brought to the Board for its consideration before they are included in a System mailing.

As an alternative, the Board may wish to direct Staff to develop in conjunction with the retiree organizations material that could be included with the retirement application package that would provide prospective retirees with appropriate contact information concerning such organizations. Staff believes this to be a preferable option, in that it would provide retiring members with the opportunity and means to contact and/or join a retiree organization without placing the System in the sensitive position of disclosing confidential information to third parties.